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# JAPANESE MEDIASCAPE: INTELLECTUAL PROPERTY AND THE VALUE CHAIN

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## Abstract

The aim of this article is to examine the Japanese Governments approach to protecting its media trade and, concurrently, growing its cultural and monetary value. Media trade falls within the umbrella of the Japanese contents business. A precise definition of what constitutes this business from a Japanese perspective is very difficult to ascertain. In the global village of an increasingly interconnected world, the achievement of meaningful protection for its commensurate intellectual property is problematical. Piracy of content, which occurs on a grand scale at the individual and business level, is substantially detrimental, from the perspective of revenue, to the owners of the originating intellectual property. The advances in technology, which conjointly creates problems and opportunities for media trade, are significant in the ever-changing mediascape. The value chain is used to draw attention to the need for multi-channel revenue streams in the promulgation of media trade to maximise revenue. This study argues that the Japanese government, in the bubble economy of the 1980s into the 1990s, failed to appreciate the intrinsic financial and cultural value of its popular culture. It delineates the change process within Japan since then to better retain value and enable the longer-term viability of its contents business.

**Key words:** Japanese content business; Intellectual property; Value chain; Japanese media strategy; Remaking; Regionalization

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## INTRODUCTION

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The aim of this article is to examine the Japanese Government's approach to protecting its media trade, particularly in the domain of popular culture, and, concurrently, growing its cultural and monetary value. Media trade falls within the umbrella of the Japanese contents business. A precise definition of what constitutes the contents business, a term I use throughout this article, from a Japanese perspective is very difficult to ascertain. The contents business is also referred to as 'content industry, media and ICT (Information and Technologies Business)' amongst others<sup>1</sup>. In the global village of an increasingly interconnected world, the achievement of meaningful protection for its commensurate intellectual property is problematical. Piracy of content, which occurs on a grand scale at the individual and business level, is substantially detrimental, from the perspective of revenue, to the owners of the originating intellectual property. Piracy is a global problem and where with music and different business models there has been some safeguarding of revenue from a general viewpoint the protection of intellectual property in the contents business is ineffective. Cindy Lu, The BBC News Taipei, highlights the effect of censorship in China where 'Like much of Taiwanese programming, the show would not get past Chinese censors because of content considered inappropriate' The audience response in China is to enjoy content 'online or on pirated DVDs' The demise for Taiwanese producers of content is 'Much of Taiwanese culture seen on the mainland have never received official approval. This all amounts to a lot of money that Taiwan could be making, but isn't'<sup>2</sup>. The advances in technology, which conjointly creates problems and opportunities for media trade, are significant in the ever-changing mediascape. The value chain makes clear the need for multi-channel revenue streams in the promulgation of media trade to maximise revenue. The term 'value chain' is attributed to Porter<sup>3</sup>. Porter ascribes the value chain, used as a management tool to ascertain the value of the increments that form an enterprise and thereafter determine the competitive advantage (disadvantage) of the enterprise. The term value chain now has a more generic meaning and is in common usage. The concept is, in the context of this article, is used to draw attention to a number of the parameters that need attention to ascertain the competitive advantage of Japanese popular culture and the prospects for a continuum of the viability of Japanese production and distribution. This study argues that the Japanese government, in the bubble economy of the 1980s into the 1990s, failed to appreciate and capitalise on the intrinsic financial and cultural value of its popular culture. The study also proves that the Japanese contents business has not realised its potential because of a shortfall in copyright protection, comprehensive exploitation of revenue streams and an apparent naivety in the commercial aspects of distribution and the remaking process within East Asia and beyond. Notwithstanding there are risks in capitalising on popular culture in

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<sup>1</sup> SOUCHIROU KOZUKA, *Reforming Japanese Copyright and Content Distribution Laws: The Commodification of 'Cool Japan'?*, Social Science Research Network(2011), at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1912199](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1912199).

<sup>2</sup> BBC NEWS ASIA, *Taiwan's pop culture leaps Chinese hurdles*, BBC(13 January,2013), at <http://www.bbc.co.uk/news/world-asia-19868593>.

<sup>3</sup> MICHAEL PORTER, *Competitive Advantage: Creating and Sustaining Superior Performance* (Macmillan, 1985).

that it may devalue the popular culture as 'The bland homogeneity that goes with pure commodification erases monopoly advantages'.<sup>4</sup>

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## JAPANESE CONTENTS BUSINESS

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The description of content, from a Japanese legal perspective, is the 'Act on Promotion of Creation, Protection and Exploitation of Content' (*Content Promotion Act* promulgated in June 2004). Content belongs to the realm of cultural entertainment, or accomplishment, created by human activity, it includes television, films, music, drama, literature, photographs, *manga*, animation, computer games, using letters, shapes, colours, sounds, movements or visual images, or the combination of these, or information on them.<sup>5,6</sup> The Japanese Ministry of Economy, Trade and Industry (METI) categorises the contents business into four groups: 1) films and television programs, 2) music and sound, 3) games, and 4) books, newspapers, images and texts<sup>7</sup>. The Japanese Ministry of Internal Affairs and Communications categorises the contents business into three groups: 1) text, 2) sound, and 3) image<sup>8</sup>. There is additional segmentation into content production and content distribution. METI also recognises the effect of technology on distribution and the effect on media flows and ancillary merchandised products. Diagram 1 illustrates the breadth, diversity and value of the Japanese media contents business.

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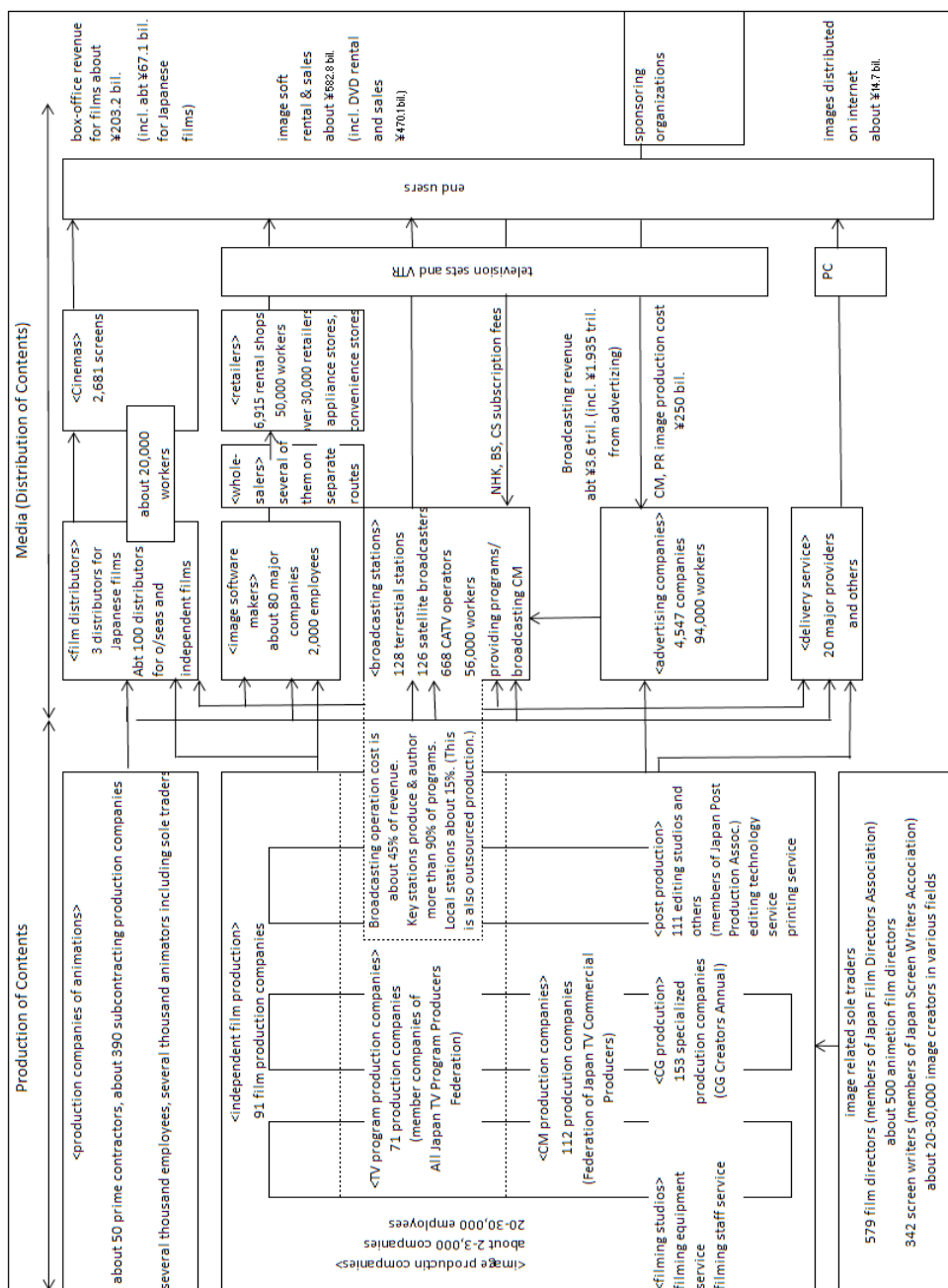
<sup>4</sup> DAVIS HARVEY, *The Art of Rent: Globalisation, Monopoly and the Commodification of Culture*, Socialist Register(2002), at <http://thesocialistregister.com/index.php/srv/article/view/5778#.UU6aqVfe51Y>.

<sup>5</sup> AKIRA NAKANO, *Kontentsu Gyokai no Doko to Karakuri ga yoku waku Hon* (Shuwa System. 2008).

<sup>6</sup> HIROFUMI YAMAGUCHI, *Kontentsu Sangyo Shinko no Seisakudoko to Kadai* (2008), at [http://www.ndl.go.jp/jp/data/publication/refer/200805\\_688/068804.pdf](http://www.ndl.go.jp/jp/data/publication/refer/200805_688/068804.pdf).

<sup>7</sup> METI, *Digital Content White Paper* (Digital Content Association of Japan. 2007).

<sup>8</sup> YOSHIKO NAKANO, *Shared Memories: Japanese Popular Culture in China*, in *Soft Power and Superpowers* (Yasushi Watanabe & David L. MacConnell eds., 2008).



**Diagram 1**  
**Production and Distribution of Japanese Media Content**  
Source: Digital Content White Paper<sup>9</sup>

<sup>9</sup> METI, Dejitaru Kontentsu Hakusho (Digital Content White Paper 2004) (Trade and Industry Ministry of Economy ed., Digital Content Association of Japan (DCAJ) 2004).

## JAPANESE CONTENTS BUSINESS: EMERGING AWARENESS OF VALUE

Koshikawa Kazuhiko, Director of the Japan Information Center, has made a number of statements suggesting that the Japanese government was slow to recognise the value of its culture in the 1980s. He refers to the 'lost decade' in the 1990s where many Japanese, including Koshikawa, were unaware of the transformations in media that were taking place<sup>10</sup>. The Diet, the Japanese parliament, now recognises the importance of cultural exports. To quote from the policy speech made by Prime Minister Abe Shinzo to the 166<sup>th</sup> Session of the Diet on 26 January 2007,

As part of the Asia Gateway initiative, we will also formulate "The Japanese Cultural Industry Strategy", which will enhance the competitiveness of areas that represent the good traits and uniqueness of Japan, such as animated film, music and Japanese food, and present them to the world.<sup>11</sup>

The Japanese television broadcasting business, as part of the Japanese contents business, is diverse and is the second largest in the world in terms of revenue<sup>12</sup>. Myers Industries Inc., in their Research and Markets report in 2001, states that Japan also had the second largest advertising expenditure. That income underpinned the production of domestic content for both domestic consumption and export<sup>13</sup>.

Fuji Television started selling their programs to foreign countries in the early 1990s. The number of programs sold in the early 2000s, reported by Murakami, a member of The Japanese Content International Development Research Group, was between 150 and 200 each year, with distribution across Asia. Some 80 per cent of that was comprised of television dramas and the remaining 20 per cent was a mixture of variety programs, documentaries, formats and the rights for remaking<sup>14</sup>.

The overseas sales are significant in numbers when compared, for example, with the overall production of trendy television dramas. Production of trendy dramas increased during the 1990s, with an average of twenty new productions per week reported in January 1999<sup>15</sup>. Distribution in Asia comprised ninety per cent of the programs and the balance went to Europe and the US. The major sales to Europe and the US were for format and remake rights. The profits were disproportionate to sales, where 70 per cent of revenue was earned from Asia and 30 per cent from Europe and the US<sup>16</sup>. Sales to Asia were primarily program content and influenced

<sup>10</sup> KAZUHIKO KOSHIKAWA, 'COOL JAPAN': *Japanese Pop Culture Goes Global*, Consulate General of Japan in New York(2004), at [http://www.ny.us.emb-japan.go.jp/en/c/vol\\_11-5/title\\_01.html](http://www.ny.us.emb-japan.go.jp/en/c/vol_11-5/title_01.html).

<sup>11</sup> SHINZO ABE, *Policy Speech by Prime Minister Shinzo Abe to the 166th Session of the Diet*(2007), at [www.kantei.go.jp/foreign/abespeech/2007/.../26speech\\_e.html](http://www.kantei.go.jp/foreign/abespeech/2007/.../26speech_e.html)

<sup>12</sup> KOICHI IWABUCHI, *Recentering Globalization: Popular Culture and Japanese Transnationalism* 4 (Duke University Press. 2002).

<sup>13</sup> MYERS MYERS GROUP, *Japan ITV and Ad Spending*, Research and Markets(2001), at [http://www.researchandmarkets.com/reportinfo.asp?report\\_id=6837&tracker=related](http://www.researchandmarkets.com/reportinfo.asp?report_id=6837&tracker=related)

<sup>14</sup> KOICHI MURAKAMI, *Kontentsu Kokusai Tenkai no Genjo*, The Cabinet Office(2006), at [http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/contents/kikaku2/2siryou5\\_5.pdf](http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/contents/kikaku2/2siryou5_5.pdf).

<sup>15</sup> YOKO ISHIDA, *TV Dorama Ooru Fairu 90's Minpouban* (TV Drama All file 90s Commercial Broadcast) (Asupekuto. 1999).

<sup>16</sup> MURAKAMI.

<sup>17</sup> METI, *Kontentsu Sangyo no Kokusaitenkai to Hakyuukooka*, METI Ministry of Economy, Trade and Industry (2003), at [http://www.meti.go.jp/policy/media\\_contents/downloadfiles/dai1kai\(kokusai:senryaku\)/siryou4.pdf](http://www.meti.go.jp/policy/media_contents/downloadfiles/dai1kai(kokusai:senryaku)/siryou4.pdf).

by cultural proximity. The activity and business of original media production, remaking and formats is growing. There has been little Japanese government support for these sales.

The contents business, even with revenue leakage and inadequate exploitation of the value chain is valuable to Japan. Japanese exports of *anime*, television drama, film and documentaries in 2001 were almost 43 billion yen. Exports were predominately in two segments: 60 per cent was *anime* and 30 per cent drama and film. Asia bought fifty per cent of the overall production time and 40 per cent in the US, with the balance elsewhere<sup>17</sup>. The profits from *Pokémon*, *Pocket Monster* (including game machines), card games, VCDs, movies, publications, media mix paraphernalia such as foods, toys, stationery, children's clothes, et cetera, was 20 billion yen<sup>18</sup>. The Japanese contents business has expanded beyond that required for domestic consumption. Contents business international strategists report that Japanese *anime* occupies 65 per cent of the international market<sup>19</sup>. JTB reports profits in excess of \$US 4 billion in 2002.<sup>20</sup> This is 3.5 per cent of the Japanese exports to the US, and draws attention to the need to protect and increase contents business, a great stimulus for not only developing new texts and formats but also for the business of remaking<sup>21</sup>.

Japan's competitive advantage in a segment of its contents business is illustrated by the fact that 'sixty per cent of the global production of *anime* and *manga*' is Japanese<sup>22,23</sup>. METI and its Property Strategy Unit and Specialist Content Investigation Unit's contents business international strategists confirm the strength of these Japanese products<sup>24</sup>. JETRO reports sales in excess of 43.6 billion yen (\$US 330 million) in 2002. This is 3.5 per cent of all Japanese exports to the US at that time, and draws attention to the need to protect and increase the media business, a great stimulus for not only developing new texts and formats but also for the business of remaking<sup>25</sup>. Media plays an important role not only in promoting content for the national benefit, but also in benefiting cultural flows across Asia.

The estimated value of Japanese contents business, including films, *anime*, game, *manga*, television and music, was 14 trillion yen in 2006. The Japanese government sees the growth of the contents business as a national process and has expectations that it will reach 19 trillion yen by 2015<sup>26</sup>. Matsubara Sho of METI, by telephone interview on 18 May 2011, said 'It is quite difficult to ascertain absolute figures of import and export rates as we have to get information from overseas. Japanese

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<sup>18</sup> METI, *Kontentsu Bijinesu no Kaigai Tenkai ni Tsuite*, METI(2003), at <http://www.kantei.go.jp/jp/singi/titeki2/tyousakai/contents/dai3/3siryou2.pdf>.

<sup>19</sup> Id. at.

<sup>20</sup> JETRO, *Japanese Trade and Investment Statistics*, JETRO(2009), at <http://www.jetro.go.jp/en/reports/statistics/>.

<sup>21</sup> METI, *Kontentsu Sangyo Kokusai Senryaku Kenkyuukai*: Chukan Torimatome 8-11 (Commerce and Information Policy Bureau Ministry of Economy Trade and Industry ed., Ministry of Economy, Trade and Industry 2003).

<sup>22</sup> METI, *Kontentsu Bijinesu no Kokusai Tenkai to Hakyu Koka* 8 (Ministry of Economy, Trade and Industry. 2003).

<sup>23</sup> METI, *Kontentsu Sangyo no Kokusaitenkai to Hakyuukooka*.

<sup>24</sup> METI, *Kontentsu Bijinesu no Kaigai Tenkai ni Tsuite*.

<sup>25</sup> METI, *Kontentsu Sangyo Kokusai Senryaku Kenkyuukai*: Chukan Torimatome.

<sup>26</sup> METI, *Gijyutsu Senryaku Mappu*., Ministry of Economy, Trade and Industry (2008), at [http://www.meti.go.jp/policy/mono\\_info\\_service/contents/downloadfiles/gizyutumap.pdf](http://www.meti.go.jp/policy/mono_info_service/contents/downloadfiles/gizyutumap.pdf).



media products such as video games, *anime*, television drama, film and music exports were seven billion yen<sup>27</sup>. This highlights the problem in validating the “real” value of the Japanese contents business while not underscoring its importance.

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## JAPANESE CONTENTS BUSINESS: EVOLVING STRATEGY

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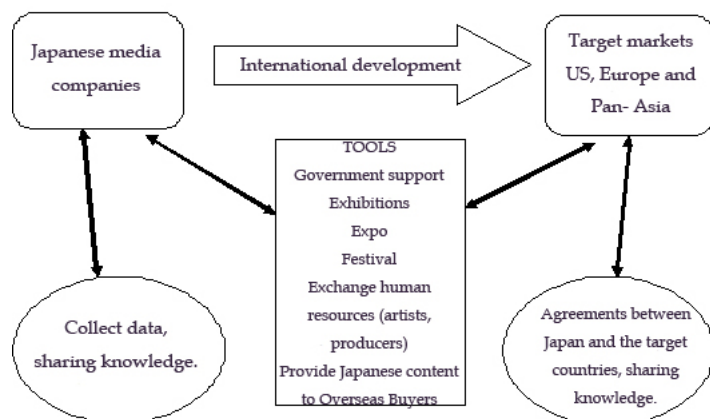
The contents business in Japan is receiving increased attention, notably from 2003, from the Japanese government in order to better guide, regulate and protect Japanese media products. The national government is engaging with regional governments to provide pro-active support for the contents business through its bureaucracy and consular networks, not only to protect the intrinsic value of Japanese media content but also to grow the trade and, in turn, to recognise the potential cultural and commercial benefits deriving from it. The distribution of media content introduces problems, resulting in large leakages of financial value. Piracy, unauthorised copying and downloading of media content has significantly devalued licensees, ownership, remaking and formatting<sup>28</sup>. According to the government, Japan is not reaping the financial benefits from content that it deserves; it has to realise the benefits of multi channels, and to recognise and properly value contents, particularly contents remade from Japanese source materials. Their response to loss of value from piracy was to implement, in 2003, an Intellectual Property Strategy Group (*Chiteki Zaisan Senryaku Honbu*) to support and promote the Japanese media contents business. Through this, the government acknowledged that by creating high quality music, film and *manga*, Japan was promoting and needed to protect high quality culture.

The Japanese government, its embassies and foundations have integrated their aims with media companies to grow international media business. METI puts great emphasis on strategies for the export of Japanese *anime* and media contents business for export overseas, and it collaborates with the Intellectual Property Strategy Unit and specialist contents investigation units. The government, in the following year, established the Intellectual Property Promotion Plan 2004 (*Chiteki Zaisan Suishin Keikaku*). Diagram 2 illustrates the strategy map created in 2003.

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<sup>27</sup> SHO MATSUBARA, Interview with Matsubara Sho, May 18, 2011 (2011).

<sup>28</sup> METI, *Chiteki Zaisan no Sozo*, Hogo Oyabi Katsuyo ni Kansuru Sushin Keikaku (METI ed., METI 2003).



**Diagram 2**  
**Japanese Media Strategy Map**  
Source: Japanese media strategy map<sup>29</sup>

The Japanese government continues to take firm action to protect the intellectual property rights of the media business and is creating new regulations intended to protect Japanese cultural products. To meet the requirements of the Cabinet Office of the Government of Japan, the Content Business International Strategy group has established objectives to:

- Develop and expand domestic media contents business market.
- Develop and expand the market for licensed Japanese media contents business.
- Prevent unlicensed DVD production.

The need for a successful implementation of the limitation of unlicensed DVD production is illustrated by the potential fiscal shortfall in 2004, due to the impact of the unlicensed DVD market, estimated to be worth about 980 billion yen (\$US 9 billion)<sup>30</sup>.

The Japanese government introduced the Content Promotion Law, in 2004, to promote export business<sup>31</sup>. The METI group examined the contents industries from the viewpoint that Japanese products within the broad-based entertainment genre could, and do, play significant roles in the regionalisation and globalisation of uniquely Japanese content. METI highlighted the commercial advantage that Japan currently holds because of the diversity of its media content.

Makers of Japanese *anime*, as with other parts of the Japanese contents business, enter into co-productions, grant licences to local agencies and outsource operations in the region to grow and protect value. There are issues, in that the production of Japanese *anime* is more and more for older domestic consumers while children constitute the principle *anime* overseas consumers. Differential codes of ethics are also an issue for makers. Japanese *anime* makers are reducing risk through their use of presales and are not necessarily producing for the domestic market. In these

<sup>29</sup> METI, *Kontentsu Bijinesu no Kaigai Tenkai ni Tsuite*, (2003).

<sup>30</sup> DIGITAL CONTENT ASSOCIATION OF JAPAN, *Dejital Kontentsu Hakusho 2004* (Digital Content White Paper) (Keizai sangyosho shomujoho seisaku kyoku ed., Digital Content Association of Japan. 2004).

<sup>31</sup> *Nihon no Media Kontentsu Yushutsu no Genjo to Kadai*. pt. 1-10 (2005).



instances, from the earliest planning stage, they seek partners in the target market to finance the *anime* production process. This approach is yielding better financial returns for Japanese *anime* makers than is evident in the local market. This practice may well have longer-term impacts on the sustainability of *anime* sales in Japan, where counter flows may become more commonplace, as they take a greater part of total shares. Notwithstanding the overall trend, the sales of *anime* to the US from 2003 to 2007 declined from approximately \$US 4.5 billion to \$US 2.5 billion, which, in part, is attributable to bilateral agreements, but it raises additional questions. The promotion of *anime* and comic content, though supported by the Japanese government, JETRO and the Japan Foundation, has to have the quality to obtain the business<sup>32</sup>.

METI examined the media business in 2007 stating 'Content industries have two aspects, "culture" and "business". We have focused solely on the business side and not considered how the culture can be applied to create economic value'<sup>33</sup>. In this respect, the thinking was moving from culture per se to the commodification of culture. Arguably the METI examination was belated when viewed from an external perspective and that commodification of culture is a given. Harvey stated 'culture has become a commodity of some sort is undeniable' whilst qualifying this opinion 'something so special about certain cultural products'<sup>34</sup>. The research group realised that focussing solely on the side of business limits commercial potential, also that consideration of cultural aspects and cultural flows can be considered to be creating economic value<sup>35, 36</sup>. The METI statement indicates a significant shift in focus on cultural exports. Accordingly, several factors that have led to the expansion of Japanese media exports to East Asia, and adaptations and remakes of Japanese programs in particular, needs to be examined. Further analysis beyond the scope of this article will show that the business has had mixed outcomes in protecting the value chain.

As well as the METI, The Ministry of Internal Affairs and Communication, called *Somusho*, promotes Media Content Industry in Japan. They have prepared special discussion papers as *Joho Tsushin Shingikai* (Information and Communications Council), and their function is to review, revise and promote overseas broadcasting<sup>37</sup>. They examined issues in overseas television broadcasting over eight meetings between 4 September 2006 and 30 March 2007<sup>38</sup>. Tanaka pointed out that regionalised broadcasting in East Asia, noting Japan, Korea Taiwan and China, emphasised the significance and the benefits of government support, which is particularly illustrated by the growth of the Korean television business<sup>39</sup>. One

<sup>32</sup> METI, *Kontents Sangyo Kokusai Senryaku Kenkyuukai Gijiroku*, (Commerce and Information Policy Bureau Ministry of Economy Trade and Industry ed., Ministry of Economy Trade and Industry 2006).

<sup>33</sup> METI, *Contents Global Strategy: Final Report*, Ministry of Economy, Trade and Industry. 9 (2007), at [http://www.meti.go.jp/policy/mono\\_info\\_service/contents/downloadfiles/houkokusyo-Eversion.pdf](http://www.meti.go.jp/policy/mono_info_service/contents/downloadfiles/houkokusyo-Eversion.pdf).

<sup>34</sup> HARVEY.

<sup>35</sup> METI, *Contents Global Strategy: Final Report*.

<sup>36</sup> *The National Association of Commercial Broadcasters in Japan*(2008), at <http://www.nab.or.jp/>.

<sup>37</sup> SOMUSHO, *Eizo Kokusai Hoso no Arikata ni Kansuru Kentou linkai* (2008), at [http://www.soumu.go.jp/main\\_sosiki/joho\\_tsusin/policyreports/joho\\_tsusin/eizoukokusai\\_backno.html](http://www.soumu.go.jp/main_sosiki/joho_tsusin/policyreports/joho_tsusin/eizoukokusai_backno.html).

<sup>38</sup> Id. at.

<sup>39</sup> NORIO TANAKA, *Higashi Ajia ni Okeru Kaigai Joho Hasshin no Genjo to Kadai*, in *Hoso Kenkyu to Chosa: Nenpo 2008* (Haruo Ohashi ed. 2008).

could infer that Korea saw the strength of Japanese broadcasting and, as is evident from the progress of manufacturing in the country, wanted to have a strong and resourceful media capacity. This point is made by Tanaka when he asserts that Korea always competes with foreign media, and they have been working at a national level with a national policy to achieve their goals<sup>40</sup>.

The Japanese Government, through its bureaucracy, continues to place great emphasis on strategies and policies for the export of media contents. These play an important role not only in promoting domestic content but also in reinforcing the growth of media exports. Flew makes the point that:

Media Policy has been central to the development of media in all of its forms. Government policy institutions regulate the ownership, production and distribution of media, and seek to manage and shape cultural practices in order to direct media institutions towards particular policy goals.<sup>41</sup>

Strategy committee meetings of the intellectual property strategy group been held annually. On 4 April 2009, a key strategy was announced by them to strengthen and consolidate soft power industries, called 'brand industries', which include media, music, food and fashion<sup>42</sup>. The strategy aims to promote the business to Japanese fans, media creators and Asian audiences, as well as to European and American audiences. As a result, contents business industries have been promoted through various events; for example, the Japan Media Arts Festival, Japan International Contents Festival, the Japan Expo in Paris and the Asia Content Business Summit were all held in 2009<sup>43</sup>. Scholars are researching Japanese media content, *Manga* in particular is attracting more attention that is scholarly, and content increasingly feature as themes at international academic conferences.

METI now aims to facilitate an increase in profit from the contents business by 2015, to more than 5 trillion yen (\$US 40 billion)<sup>44</sup>. The Content Industry Promotion and Strategy Research report subsequently formulated the budget plan, until 2020<sup>45</sup>. Sharing of the income from *The Ring* within a more equitable contract, and if this approach had been replicated with other remade programs and formats, then one might predict that this may have been a conservative estimate of the actual profit.

The Japanese government continues to be proactive, and is sustaining its emphasis on growing the contents business. As recently as 8 June 2010, METI established a Creative Industries Promotions Office under the Manufacturing Industries Bureau to plan and implement inter-ministerial measures to promote cultural industries, or creative industries, such as design, animation, fashion and movies, as a strategic sector for Japan. The office is charged with implementing measures that facilitate overseas expansion to disseminate relevant information in Japan and abroad, and to develop human resources.

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<sup>40</sup> Id. at.

<sup>41</sup> TERRY FLEW, *Understanding Global Media* (Palgrave Macmillan. 2007).

<sup>42</sup> METI, *Brando Senryaku Akushon Pran (Brand Strategy Action Plan)*, METI (2009), at <http://www.cas.go.jp/jp/seisaku/brand/dai02/nbap.pdf>.

<sup>43</sup> Id. at.

<sup>44</sup> METI, *METI Report: Kontentsu Sangyo no Kokusaitenkai Shisaku ni Tsuite*, METI(2008 ), at <http://www.meti.go.jp/committee/materials2/downloadfiles/g81209a09j.pdf>.

<sup>45</sup> METI, *Content Industry Promotion and Strategy Research Report* METI(2010), at <http://www.meti.go.jp/report/downloadfiles/g100514b01j.pdf>.

The resolution is as follows:<sup>46</sup>

1. The government's 'New Growth Strategy' and 'Industrial Structure Vision 2010' expect that Japan's cultural industries, such as design, animation, fashion and movies will become a strategic sector that drives the nation's future economic growth.

2. Under the single, long-term concept of Cool Japan, the Creative Industries Promotion Office will promote these cultural industries in cooperation with the private sector by facilitating their overseas expansion and human resource development.

3. More specifically, as a section within METI, dedicated to measures to promote cultural industries, the Creative Industries Promotion Office will work with related ministries and Japanese/foreign private organizations to plan and implement inter-ministerial measures, such as helping these industries cultivate overseas markets, disseminating relevant information in Japan and abroad by hosting domestic and international events, and developing creative human resources through collaboration with universities and human resource matching programs.

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## JAPANESE CONTENTS BUSINESS: EFFECT OF TECHNOLOGY

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Continued evaluation in respect to the effect of technological advances including the switch from analogue to digital transmission on the value of content is necessary and new business models developed in order to maximise financial and cultural benefits. By 2005, the internet was inextricably linked with daily life activities<sup>47</sup>. Since then, the continued development of transmission systems has enabled increased speed and volume of content, and has provided for the distribution and reception of live pictures and sound in almost real time. The content received via fixed television screens, portable personal computers and allied devices as technologies converged created an expanding market for reception. The Ministry of Economy, Trade and Industry (METI) drew on expert opinion from outside of its study group. Shigenobu Hiroshi, Chairman of TV MAN UNION is forward thinking in his appreciation of where technology will lead the business.

Television sets in homes will inevitably be used both for broadcasting and telecommunication. The technology of digital terrestrial broadcasting will surely diversify value for the audience. Segmentation of content, for example on the internet, cannot be avoided. The broadcasting and telecommunication industries will consider together how they can use new networks in creative ways while making use of effective use of merits of the terrestrial broadcasting media for growth of their business<sup>48</sup>.

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<sup>46</sup> METI, *Establishment of the Creative Industries Promotion Office*, The Ministry of Economy, Trade and Industry (METI) (2010), at [http://www.meti.go.jp/english/press/data/20100608\\_01.html](http://www.meti.go.jp/english/press/data/20100608_01.html).

<sup>47</sup> HARUO OHASHI, et al., *NHK Data Bukku Sekai no Hoso 2008* (NHK Broadcasting Culture Research Institute, 2008).

<sup>48</sup> *Contents Global Strategy: Final Report 6* (Ministry of Economy Commerce and Information Policy Bureau, Trade and Industry ed., Ministry of Economy, Trade and Industry July 2007).

## JAPANESE CONTENTS BUSINESS: REMAKING

The remaking of Japanese media products falls within the contents business and presents a challenge in respect to the retention of intellectual property value. Media scholars interpret remaking in many ways. Atkinson refers to the processes of ‘adaptation and appropriation’ and ‘the over-arching practice of intertextuality’<sup>49</sup>. Moran refers to adaptations ‘of television program formats in the areas of game shows and soap opera’<sup>50</sup>. In reference to cross-national adaptation, Moran expresses a concern regarding textual translation and the ‘national colouring’ of the translation<sup>51</sup>. Tunstall uses the word ‘versioning’<sup>52</sup>, where the imported content is realigned to localise the content; for example, in a television mini-series. Hutcheon theorises on adaptation<sup>53</sup>. The range of terms used illustrates the difficulty in arriving at a finite description about the practices and complexity of the process of remaking, as it is understood within this article, both within and across media content. In the context of this study, the term “remaking” is adopted to include not only a remaking of media content within a genre or format but also of transferring it from one format to another.

Remaking can involve changes in content and format, and may draw from two or more remakes to form a composite media product. Remaking of *manga*, *anime*, television drama and film occurs within Japan primarily for Japanese consumption. Media products from Japanese sources may also be remade outside of Japan, where such media products as television dramas are localised for consumption by their respective national audiences. Notwithstanding the domestic market, *Manga* is a rich source for Japanese remaking of texts into other media formats which trade beyond Japan, for example the popular and progressively more international television drama series *Hana yori Dango* (Boys over flowers).

The Japanese government emphasises the need for producers to be aware that there is no set of international rules or agreements to control program format and remaking<sup>54</sup>. METI researchers have identified many cases (not quantified) where remaking in the form of copy versions of media content have been made without permission being obtained or licences being established. Japan also has provided inspiration, and has influenced producers outside of Japan to use Japanese content within an overseas production. Examples of this are the Hollywood blockbuster *Star Wars* and Kurosawa's film *Kakushi Toride no San Akunin (The Last Princess)*, produced in 1958<sup>55</sup>. The similarities in the opening and the last scene are evident. Yuki Hime (Princess Yuki) in Kurosawa's film was the model for the character of Princess Leia, performed by Carrie Fisher. In another scene in Kurosawa's film where Princess Yuki is lying down in the rain is identical to the captured princess Leia where she is

<sup>49</sup> KATE ATKINSON, *What is Adaptation?*, in *Adaptation and Appropriation* 17, (Julie Sanders ed. 2008).

<sup>50</sup> ALBERT MORAN, *Copycat Television: Globalisation, Program Formats and Cultural Identity* 75 (University of Luton Press, 1998).

<sup>51</sup> Id. at 76.

<sup>52</sup> JEREMY TUNSTALL, *The Media Were American* 7 (Oxford University Press, 2008).

<sup>53</sup> LINDA HUTCHEON, *A Theory of Adaptation* (Routledge, 2006).

<sup>54</sup> INSTITUTE FOR INFORMATION AND COMMUNICATIONS POLICY, *Henbo suru Kontentsu Bijinesu* (Changing Content Business) (Tovokeizai Shinposha. 2005).

<sup>55</sup> YASUKI HAMANO, *Moho Sareru Nihon* 22 (Shodensha, 2005). id. at;id. at;id. at;id. at;id. at;id. at.HAMANO;id. at;id. at;id. at;id. at;id. at.

also lying down. Farmers Matashichi and Tahei in Kurosawa's film are the models for the robots C3PO. George Lucas, the director of *Star Wars*, states that he admires Kurosawa's work and is very much inspired by him<sup>56</sup>.

The underlying value of remaking, if one accepts as an example the proposition that *The Lion King* is a remake of the Japanese manga *Janguru Taitei* (*Jungle Emperor*), can be substantial. The intent of this article is not to delve into the legalities of copyright issues but to draw attention to aspects of media trade requiring international attention from a legal perspective. Copyright is a very difficult area for media producers. Moran asks the question: 'What exactly is a program format?'<sup>57</sup>. The problem of defining copying with respect to formats is difficult enough, but the problem becomes much more complex when companies endeavour to apply protection to content, such as in *Janguru Taitei*. Kozuka draws attention to the Japanese Intellectual Property Policy Headquarters where incorporation of policy proposals directed to the protection of digital content drawing on mobile phones. More importantly, he outlines the emerging global framework of copyright law through the World Intellectual property organisation (WIPO). Japanese courts effectively protect copyright but maximising contents industry value it is not just about copyright. The reform of distribution channels within Japan is in the spotlight of the Ministry of Internal Affairs<sup>58</sup>. When content moves from domestic to regional or global the effectiveness of copyright is less clear and the market power exhibited by major distribution channels remain as issues for the producers of content. Another prospective problem with copyright is, even if the protection is very strong and there actual infringement of it, does the owner have the desire or economic power to pursue it?

There have been many comments made that question the source of Disney's *The Lion King*. Some scholars<sup>59</sup> have stated that *The Lion King* must be a copy of Tezuka Osamu's original *manga*, *Janguru Taitei*. Tezuka Osamu was born in 1928, some five years after the establishment of the Disney Company in 1923. As a child he was an avid consumer of early Disney animation. His 'cinematic-style stories' in the immediate post-war years completely changed the concept of children's comics in Japan<sup>60,61,62</sup>. The popular press in both Japan and in the US was equally critical of Disney. The Japanese *Asahi* newspaper stated that Disney's *The Lion King*, the greatest hit in the US, is very similar in many ways to Tezuka's work *Jungle Emperor* (*Janguru Taitei*)<sup>63</sup>. They cited the *San Francisco Chronicle* of 11 July 1994, which said: '... anime related workers were appalled ... Both *The Lion King* and *Jungle Emperor* share the same story line...' The *Los Angeles Times* of 13 July 1994 commented that

<sup>56</sup> Joji Rukasu (2010), at <http://www.gotostyle.net/lucas.html>

<sup>57</sup> MORAN, x;id. at.

<sup>58</sup> KOZUKA.

<sup>59</sup> EIJI OTSUKA & NOBUAKI OSAWA, *Japanimeeshon wa Naze Yabureru ka* ( Why Japanimation is failing?) (Kadokawa Shoten. 2005).

<sup>60</sup> NATSU ONODA POWER, *God of Comics: Osamu Tezuka and the Creation of Post- Worlds War II Manga* (University Press of Mississippi. 2009).

<sup>61</sup> TEZUKA TEZUKA PRODUCTIONS, *Tezuka Osamu Zenshi* ( History of Tezuka Osamu's work) (Akita. 2007).

<sup>62</sup> FREDERIK L. SCHODT, *Nippon Mangaron* (Dreamland Japan) (Ayako Higuchi trans., Maar-Sha. 1998).

<sup>63</sup> *Tezuka Anime ni Sokkuri Rongi* (*Lion King and Tezuka Animation are almost identical*), *Asahi Shimbun* 1994, July 16, at 11.

'... the original title of *The Lion King* was *King of the Jungle*, almost identical to *Jungle Emperor*, with a name change prior to release'<sup>64</sup>.

Disney asserted that *The Lion King* was their original work. This position is understandable when considering the huge financial windfall accruing to Disney from the film, which was released in July 1994 in the US. Within four weeks, sales were \$US 143,000.000 . Total box office receipts grew to \$US 328,423,001<sup>65</sup>. The collective gross revenues are well in excess of a billion \$US from the *anime* film and the stage musical. DVD sales and other merchandised items for *The Lion King* continue.

## JAPANESE CONTENTS BUSINESS VALUE CHAINS

The contents business has cultural impacts, but to be sustainable it needs to have its revenue exceeding its costs, whatever that source of revenue may be. One measure for maximising financial returns is thorough exploitation of the value chain. The value chain is one of the tools available for appreciating the value of, and taking full advantage of, the good standing of Japanese media cultural products. Table 1 illustrates aspects that may be attributable to a value chain. There are three key headings in the value chain of media, be it original or remaking: production costs, gross income and value leakage

**Table 1**  
**Media Value Chain**

| A             | B                      | C             | B-(A+C)    |
|---------------|------------------------|---------------|------------|
| Costs         | Income                 | Value leakage | Net return |
| Financing     | Subsidies              | Copying       |            |
| Copyright     | Sale and distribution  | Hacking       |            |
| Directors     | Licence fees/royalties | Plagiarism    |            |
| Actors        | Remaking               | Piracy        |            |
| Screenwriters | Franchising            |               |            |
| Staff         | Formats                |               |            |
| Locations     | Theatres               |               |            |
| Assets        | Branding               |               |            |
| Logistics     | Video tapes            |               |            |
| Technology    | CD's and DVD's         |               |            |
| Distribution  | Apparel                |               |            |
|               | Toys                   |               |            |
|               | Life style             |               |            |
|               | Locations              |               |            |
|               | Theme parks            |               |            |

Production costs are within a particular production budget and are controllable; gross income depends on the business approach to maximising revenue that is dependent on the production entity's imagination, skill, knowledge and resources, to create and protect multiple revenue streams; it also depends on audience and

<sup>64</sup> KYODO, see id. at July 16. 1994.

<sup>65</sup> *All-Time Box Office: USA*, The Internet Movie Database(2011), at <http://www.imdb.com/boxoffice/alltimegross>.



market acceptance of the content and merchandised products. It is also necessary to determine the sales value of media content. There are cost thresholds which if exceeded could inhibit the sales value of exported programs. Hwang draws attention to this in the Korean sales of television dramas to Taiwan. There was a decline in sales during the Korean Wave but sales rose again in late 2008/09. In early 2008 the sales value per episode was \$US 5000 falling in the same year to \$US 2643<sup>66</sup>. The production entity has little control of value leakage. Value leakage, in the form of illegal copying from the initiating product or associated merchandised items or hacking, diminishes the prospective value of the product to the production and distribution entities.

Lim illustrates as an example the value chain of *Meteor Garden*, the Taiwanese remake of *Hana yori Dango*. She states that Comic Ritz secured a six-year licence from Shueisha, which was to safeguard and maximise the benefits of their initial investment<sup>67</sup>. Lim's value chain encompassed pre-production, production, distribution and circulation, representations-marketing and promotions, regulation, consumption and identity<sup>68</sup>. Her findings illustrate the complexity of remaking within the prime components of the media value chain. Comic Ritz took spatial advantage of the initiating Japanese *manga* and differentiated it by converting the *manga* into a television drama. Merchandising added value to the television drama and included a music video and album, VCDs and then DVDs, with significant loss of prospective revenue 'with many pirated copies floating in East and South-East Asian cities'<sup>69</sup>. They also engaged in marketing and promotion to establish a brand that appealed to Asian youth – a deal with Pepsi and merchandised items such as 'puzzles, cups, flags, fashion accessories, et cetera'<sup>70</sup>. The Taiwanese exploitation of the original Japanese *manga* can be seen as an outstanding example of how to gain value from a media cultural product beyond the revenue derived from the television drama distribution. The additional revenue stream of overseas distribution and sub-licensing further increased value.

Disney's *The Lion King* is an example of what the Japanese popular culture business needs to consider if it is to become sustainable. Disney is a large and powerful company. Its roots are in the work of an extremely talented and imaginative comic artist, Walt Disney. Disney continues to this day to grow in economic value while Tezuka Productions has not. Disney was the pioneer of the art of animation. Any examination of Walt Disney will illustrate that apart from his artistic genius he was also an entrepreneur who saw the value in horizontally and vertically expanding his core animation business to take advantage of the iconic characters that he and his team produced. Walt Disney was aware of animation's importance and demonstrated this by establishing Disneyland as a concept in 1954, opening 1955. To place Disney in a financial context, their annual turnover in the fiscal year 2010, confirmed in the Annual Financial report, was close to \$US

<sup>66</sup> SEONG BIN HWANG, *The Current State of Korean TV Drama* JAMCO(2010), at [http://www.jamco.or.jp/2010\\_symposium/en/005/index.html](http://www.jamco.or.jp/2010_symposium/en/005/index.html).

<sup>67</sup> WEI LING TANIA PATRICIA LIM, *Formatting and Change in East Asia Television Industries: Media Globalization and Regional Dynamics* (2005) (PhD, Queensland University of Technology).

<sup>68</sup> Id. at, 181.

<sup>69</sup> Id. at, 180.

<sup>70</sup> Id. at.

40 billion, inclusive of almost 44 per cent media network, 30 per cent theme parks, 18 per cent studio entertainment and 7 per cent third party consumer products (merchandise products)<sup>71</sup>. The Disney website illustrates the integration of products and services, inclusive of games, activities, characters, travel, live events, movies, television, music, mobile and members, and Mickey Mouse is ubiquitous<sup>72</sup>.

Product differentiation is a component of competitive advantage. Disney differentiated *The Lion King* into a stage musical. The Shiki Theatre Group continues to presents, and has done since 1998, the Japanese musical production of *The Lion King* in Japan. There is an extensive range of revenue streams for global distribution and merchandising. The product still has life in it, with DVDs for sale, albeit at discounted prices.

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## REGIONALISATION EMERGES

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Japan has taken a leadership role in East Asia with the implementation and development of its contents business. The Asian region has taken notice of this and it has created an environment where regionalisation can take root. Regional issues in Asia discussed in this article confirm this opinion. Korean government legislation restricted the exportation and importation of Japanese television, music and film productions; however, from 1998 government legislation and conjoint technological changes were dynamic. Taking the case of Korea and Japan as an example shows how the progressive lifting of restrictions on media trade by Korea after 1998 enabled cross-cultural media flows to increase. In 1998, Korea allowed official imports of Japanese films for the first time. Japanese pop musicians were allowed to perform in Korea, with audiences restricted to 2000 people<sup>73, 74</sup>. In 2004, both the Korean and Japanese markets were further opened with regard to the importation of popular culture productions, and both governments began to support co-productions with funding and legislation<sup>75, 76</sup>. Before implementing the progressive four-step Korean Government policies, Korea did not import Japanese media products, although they produced 'unofficial' video compact discs, with some productions being based on Japanese television drama stories<sup>77</sup>.

There were also changes in the relationship between Taiwan and Japan throughout the 1990s. Martial law in Taiwan was lifted in 1987 and NHK was broadcast into Taiwan<sup>78</sup>. The restriction on Japanese Television programs was lifted in 1994 and that allowed the viewing of Japanese drama, variety programs, quiz shows, *anime*, etc.<sup>79</sup> In 1998, there were five TV stations for Japanese programs.

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<sup>71</sup> Annual Reports, Disney(2010), at [http://corporate.disney.go.com/investors/annual\\_reports.html](http://corporate.disney.go.com/investors/annual_reports.html).

<sup>72</sup> DISNEY, *Welcome to Disney In Australia and NZ*, Disney Pixar(2011), at <http://home.disney.com.au/>.

<sup>73</sup> KENICHI ISHII, *Higashi Ajia no Taishuu Bunka* ( Popular Culture in East Asia) (Sososha. 2001).

<sup>74</sup> YASUTAKA MAEDA, *Kindaichu Daitoryo no Tainichi Taishu Bunka KaihoSeisaku no Rekishiteki Imi*, 37 Otsuma Joshi University Higher Education (2007).

<sup>75</sup> ISHII.

<sup>76</sup> MAEDA.

<sup>77</sup> HAMANO.

<sup>78</sup> MINISTRY OF FOREIGN AFFAIRS OF JAPAN, *Taiwan*, Ministry of Foreign Affairs of Japan(2011), at <http://www.mofa.go.jp/mofaj/area/taiwan/data.html>.

<sup>79</sup> KEIJI YANO, *Taiwan ni Okeru Nihon no Wakamono Bunka* (Japanese Youth Culture in Taiwan), Ryukoku University (1997), at <http://www.econ.ryukoku.ac.jp/~nomura/tanino.htm>.

Taiwan imported many Japanese trendy dramas in the 1990s. The changes in the triangular relationship between Japan, Korea and Taiwan have had a significant influence on regional remaking and countering Western historical hegemony in television. Lee states that Korean popular culture 'has been contextualised by American media culture'<sup>80</sup>. Lee also draws attention to a more complete picture of the media market production and content dynamics. The West is now not the only influence in Asia, since Korea has developed its media business progressively both internally and externally drawing on Japan as well as the US in evolving narrative forms and content that have created a Korean cultural flavour, as distinct from the Japanese 'cultural odour' discussed by Iwabuchi<sup>81</sup>.

The licensed remaking of *Hana yori Dango* in Taiwan and Korea, as well as elsewhere is a prime example of a controlled process of localisation. Not all remaking is licensed, Lee draws attention to unlicensed adaptation and cloning, and replications to a substantive extent, of Japanese quiz genres. Remaking may also draw on a collage of elements. These practices of regional copying of Japanese rather than formal trade in formats is not only prevalent in Korea but also in China and Taiwan<sup>82</sup>. Japan, aware of unlicensed use of Japanese formats has approached Korea with licensing requests to use the formats. In some instances, programs were taken off air and licence fees are not paid. Growing pains are part of this problem where structure, ideas and content are in an evolutionary process. The Japanese business has significantly contributed to regional media trade and, in my view, the Korean media business has intentionally adopted the Japanese model to accelerate its internal development while progressively becoming more localised.

The Japanese Government hosted an Asia Content Business Summit in Tokyo on 15-16 October 2009. As noted in the report key, public and private sector representatives in contents industries from China, Hong Kong S.R.R, Japan, Korea, Malaysia, Singapore and Thailand attended with the intent of strengthening cooperation in the Asian contents business<sup>83</sup>. Key points were the need to review legal systems to better protect intellectual property with respect to licensing and merchandising, and also to promote international co-production<sup>84</sup>.

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## CONCLUSION

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The Japanese government has progressively appreciated the intrinsic value of media content from both a commercial and cultural context and the loss of value in unregulated segments of the regional market, something that it failed to do in the 1990s. Technological advances while increasing the reach and attractiveness of content have also created a downside in the proliferation of piracy and allied losses

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<sup>80</sup> ALBERT MORAN & MICHAEL KEANE, *Television Across Asia : TV Industries, Programme Formats and Globalisation* 37 (Routledge Curzon 2004).

<sup>81</sup> IWABUCHI, 120.

<sup>82</sup> KOICHI IWABUCHI, *Feeling Glocal: Japan in the Global Television Format Business*, in *Television Across Asia: Television Industries, Programme Formats and Globalization* (Albert Moran & Michael Keane eds., 2004).

<sup>83</sup> METI, *Asia Content Business Summit 2009 Joint Declaration*

METI(2009), at [http://www.meti.go.jp/policy/mono\\_info\\_service/contents/downloadfiles/JointDeclaration.pdf](http://www.meti.go.jp/policy/mono_info_service/contents/downloadfiles/JointDeclaration.pdf).

<sup>84</sup> Id. at.

of revenue to media trade. The Japanese government, although slow to appreciate the value of Japanese contents business, are now focussed on promulgating, protecting and growing it. They are taking firm action to protect the intellectual property rights of the contents business, particularly in the domain of popular culture, and are utilising its bureaucracy as well as creating new regulations. The evolving Japanese development plan for the creation and protection of intellectual property of media content is a holistic one and recognises that growing human resources, promoting content and internationalising the contents business is important.

It is problematical to determine the effectiveness of the Japanese government's actions through METI and Somusho and if their involvement in trying to protect media trade is yielding tangible benefits for the contents industry. Arguably, and this requires ongoing research, it is. There are benefits in promulgating content and encouraging contents industry growth, piracy is a more intractable problem. METI have stated that they project the value of Japanese contents business, including films, *anime*, game, *manga*, television and music, will reach 19 trillion yen by 2015. If this figure is achieved the effectiveness of the relationship between the contents industry and Japanese government will be confirmed.

Remaking can significantly increase the value of a text, particularly where the original content has demonstrated audience appeal. Remaking, which can have a lower cost of production and a value multiplier effect mitigates risk where a new production has to prove itself in the market place. The importance of these aspects, from a Japanese perspective, is that positive financial returns will ensure the future of media content using Japanese talent and ideas. A negative return will result in a severe reduction in local context, with the probability of strong media counter-flows into Japan.

The achievement of a sustainable Japanese contents business requires not only government regulation, the imagination of talented artists and writers, and the growing regionalisation and internationalisation of the content, but by the net profit that emerges from the value chain. The value chain is a useful tool towards maximising revenue through the establishment of multi-channel revenue streams allied with government initiatives to mitigate piracy and unauthorised copying and remaking of content. The recognition of the need for sustainable profit growth to continue the viability of original and remade content in Japan is paramount for Japan as well as for its contents business regionally and globally. The Japanese government's effort in working with regional countries towards a unification of commercial interests, with respect to copyright and joint production, is important and necessary.